IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2004

C O R A M

THE HONOURABLE MR.JUSTICE P.K.MISRA

AND

THE HONOURABLE MR.JUSTICE S.ASHOK KUMAR

Writ Petition Nos:37138 and 35143 of 2004
and
WPMP.Nos:44577,35143, 42365 of 2004

K.Kumar ... Petitioner in WP.37138/04

G.Rajan ... Petitioner in WP.35143/04

vs.

1. The Superintendent of Police,
   Kancheepuram District.

2. The Dy. Inspector General of Police
   Chengai Range, Chennai-16

3. The Registrar,
   Tamil Nadu Administrative Tribunal
   Chennai-104. ... Respondents in both WPs

Writ Petition No:37138 of 2004 has been filed for the issuance of a writ of certiorari calling for the records of the respondents in connection with the impugned order passed by the 3rd respondent in O.A.No.8794 of 1998 dated 26.4.2004 by modifying the order of punishment issued by the 1st respondent in P.R.52/96, dated 14.10.1998 and quash the same.

Writ Petition No:35143 of 2004 has been filed for the issuance of a writ of certiorari calling for the records of the respondents in connection with the impugned order passed by the 3rd respondent in O.A.No.8795 of 1998 dated 26.4.2004 by modifying the order of punishment issued by the 1st respondent in P.R.51/96, dated 14.10.1998 and quash the same.

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For petitioner ... Mr.K.Venkataramani

For respondents ... Mr.S.Komathinayagam
Addl.Govt.,Pleader

COMMON ORDER

(ORDER OF THE COURT WAS MADE BY P.K.MISRA,J.,)

The present writ petitions are directed against the orders dated 26.4.2004 passed in O.A.Nos:8794 and 8795 of 1998 respectively by the Tamil Nadu Administrative Tribunal.

2. Heard Mr.K.Venkataramani, learned counsel appearing for the petitioners and Mr.S.Gomathinayagam, learned Additional Government Pleader appearing for the respondents.

3. The impugned Original Applications were filed by the respective petitioners challenging the orders passed in the Disciplinary Proceedings awarding punishment of dismissal. The Tribunal after re-analysing the evidence has come to the conclusion that the petitioners and two other persons have not performed their duty assigned to them in a proper manner and allowed the prisoners to be taken out to a place which was not in their itinerary. Therefore, the Tribunal even though had not accepted the entire evidence in the disciplinary proceedings, came to the conclusion that the punishment should be modified to stoppage of increment for Five years with cumulative effect.

4. Learned counsel for the petitioners has vehemently contended that in fact the Tribunal having differed from the findings recorded by the Disciplinary Authority, should have exonerated the petitioners completely and the punishment imposed is unjustified. It is also further contended that at any rate, the punishment imposed appears to be grossly disproportionate to the nature of delinquency committed by the petitioners.

5. Having heard the learned counsels at length and having gone through the materials on record, including the orders of the Tribunal, we are unable to accept the submissions made by the learned counsel appearing for the petitioners. As a matter of fact, even accepting the modified findings as rendered by the Tribunal, we are convinced that the petitioners had derelicted in their duty. Even, the modified punishment imposed by the Tribunal appears to be very lenient because a Police personnel is a person who is required to be much more careful than an ordinary employee.

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6. The Learned Counsel appearing for the petitioners also made his submissions that in view of the acquittal in the criminal case, there should not have been any further departmental proceedings and at any rate, the acquittal in the criminal case should have been considered by the Tribunal. The learned Counsel placed reliance upon the decision of the Supreme Court in Paul Antony Vs. Bharat Gold Mines Ltd., reported in 1999 (II) CTC 579.

7. We do not find that the ratio laid down in the aforesaid decision can be made applicable to the peculiar facts and circumstances of the present case. Law is well settled that in a departmental proceedings, the standard of proof is less rigorous as compared to the standard of proof required in respect of a criminal case.

8. The Disciplinary Authority had considered the evidence and imposed the punishment of dismissal. Even though the Tribunal has not accepted the entire findings of the Disciplinary Authority, it has independently considered the evidence and has found improper performance of duty by the delinquent Police personnel. Having regard to all these aspects, we do not find any merit in these Writ Petitions. Accordingly, the Writ Petitions are dismissed. Consequently, connected WPMPs are also dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gkv
Copy to:

1. The Superintendent of Police, Kancheepuram District.

2. The Dy. Inspector General of Police, Chengai Range, Chennai-16

3. The Registrar, Tamil Nadu Administrative Tribunal Chennai-104.

One cc to Mr.K.Venkataramani, advocate (SR.No.55889)
one cc to the Govt., Pleader (SR.No.55443)

ORDER IN W.P.Nos:35143 AND 37138 OF 2004

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